

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
JAMES E. MUGAN,

Plaintiff,

-against-

HARTFORD LIFE GROUP INSURANCE
COMPANY,

Defendant.
-----X

Civ. Act. No.: 09-CV-6711 (NRB) (FM)

**DECLARATION OF
MICHAEL H. BERNSTEIN**

DOCUMENT
ELECTRONICALLY FILED

MICHAEL H. BERNSTEIN, being duly sworn, deposes and states:

1. I am a member of the firm of Sedgwick, Detert, Moran & Arnold LLP, attorneys for the defendant HARTFORD LIFE GROUP INSURANCE COMPANY ("Hartford"). As such, I am fully familiar with the facts and circumstances in this matter.

2. I submit this Declaration and the exhibits annexed hereto in support of Hartford's motion for an Order pursuant to Rule 56 of the Federal Rules of Civil Procedure granting summary judgment dismissing plaintiff James E. Mugan's ("Mugan") Amended Complaint in its entirety, awarding it equitable restitution of overpaid LTD benefits plaintiff received in the amount of \$86,016.00 and for such other and further relief as this Court may deem just and proper.

3. Mugan filed his Summons and Complaint, annexed hereto as Exhibit "1," in this Court on July 29, 2009, alleging a claim for long-term disability benefits and attorney's fees under the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. §1001, *et seq.* against Hartford.

4. Hartford timely appeared in the action and requested a pre-motion conference to address the deficiencies in Mugan's Complaint by a motion to dismiss. In response, Mugan agreed to amend his Complaint. A true and correct copy of Mugan's Amended Complaint without exhibits is attached hereto as Exhibit "2."

5. On January 11, 2010, Hartford timely served its Answer To Amended Complaint And Counterclaim. A true and correct copy of the Answer is annexed hereto as Exhibit "3."

6. On January 15, 2010, Mugan filed an Reply To Counterclaim. A true and correct copy of the Answer To Counterclaim is annexed hereto as Exhibit "4."

7. During discovery, Hartford produced to Mugan copies of the curriculum vitae for Mark H. Eaton, M.D. and Peter Mosbach, Ph.D. True and correct copies of those curriculum vitae are annexed hereto as Exhibits "4" and "5," respectively.

Dated: New York, New York
July 23, 2010

I declare under penalty of perjury that the foregoing is
true and correct.

s/

MICHAEL H. BERNSTEIN (MB 0579)

CERTIFICATE OF SERVICE

I, JOHN T. SEYBERT, hereby certify and affirm that a true and correct copy of the attached **DECLARATION OF MICHAEL H. BERNSTEIN** was served **via ECF** on July 23, 2010, upon the following:

Scott M. Riemer, Esq. (SR 5005)
RIEMER & ASSOCIATES LLC
60 East 42nd Street, Suite 2430
New York, New York 10165
Tel.: (212) 297-0700

Dated: New York, New York
July 23, 2010

s/

JOHN T. SEYBERT (JS 5014)